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No. 93-1594

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

GOLDEN VALLEY MICROWAVE FOODS, INC.,
Petitioner,

v.

WEAVER POPCORN COMPANY, INC. AND
AMERICAN PACKAGING CORPORATION,
Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Federal Circuit

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BRIEF IN OPPOSITION

HAROLD E. KOHN
ROBERT J. LAROCCA
KOHN, NAST & GRAF, P.C.
1101 Market Street
Suite 2400
Philadelphia, PA 19107
(215) 238-1700

ARTHUR H. SEIDEL
THOMAS J. DURLING
SEIDEL, GONDA, LAVORGNA
& MONACO, P.C.
1800 Two Penn Center
Philadelphia, PA 19102
(215) 568-8383

RICHARD D. HARRIS*
MAX SHAFTAL
HERBERT H. FINN
LAW OFFICES OF DICK AND HARRIS
181 West Madison Street
Suite 3800
Chicago, IL 60602
(312) 726-4000

ROBERT F. CONTE
SAUL, EWING, REMICK & SAUL
3800 Centre Square West
Philadelphia, PA 19102
(215) 972-7144

Counsel for Respondents

**Counsel of Record*

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QUESTION PRESENTED

Did the Court of Appeals for the Federal Circuit err in affirming the judgment of the District Court, which judgment found that Golden Valley's two patents in suit were unenforceable because of Golden Valley's repeated, numerous, intentional acts of inequitable conduct?

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STATEMENT OF THE CASE

The Golden Valley Patents

Golden Valley manufactures and packs bags for microwave popcorn. Golden Valley obtained two patents relating to basic structural components (heating elements) for those bags which components were in existence long before Golden Valley's bags. Golden Valley then asserted the patents against the entire microwave popcorn industry (all bag makers and bag packers).[1] It sued the Respondents for patent infringement (Respondent American Packaging is a bag manufacturer and Respondent Weaver Popcorn is a packer).

Following a three week trial, solely on the inequitable conduct issue, the District Court found that Golden Valley had obtained both patents by fraud and deceit upon the United States Patent and Trademark Office, and held both patents unenforceable as a result of Golden Valley's inequitable conduct. A3-99. The United States Court of Appeals for the Federal Circuit affirmed *per curiam* and denied Golden Valley's Petitions for Rehearing and Suggestion for Rehearing *en banc*. In so doing, the District Court and the Court of Appeals applied well-established principles of law.

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1. The asserted patents at issue were U.S. Pat. No. 4,735,513, issued on April 5, 1988 (the '513 patent), and U.S. Pat. No. 4,878,765, issued November 7, 1989 (the '765 patent).

The Uncompromising Duty of Candor Owed to the United States Patent Office

Applications for patents are ex parte proceedings before the Patent Office. The industry competitors who will be adversely affected by the issued patents are not present. There is no adversarial testing of evidence. Therefore, as in any ex parte proceeding, a high standard of candor, truthfulness and completeness by the patent applicant is required. A patent applicant's failure to disclose to the Patent Office material information, or the submission of false material information, with intent to deceive, renders a patent unenforceable for inequitable conduct. Kingsdown Medical Consultants Ltd. v. Hollister, Inc., 863 F.2d 867, 872 (Fed. Cir. 1988) (*en banc*); J.P. Stevens & Co., Inc. v. Lex Tex Ltd., Inc., 747 F.2d 1553, 1559 (Fed. Cir. 1984). As this Court held, which holding was relied upon by the District Court at A80-81:

> A patent by its very nature is affected with a public interest. As recognized by the Constitution, it is a special privilege designed to serve the public purpose of promoting the "Progress and science and useful Arts." At the same time, a patent is an exception to the general rule against monopolies and to the right to access to a free and open market. The far-reaching social and economic consequences of a patent, therefore, give the public a paramount interest in seeing that patent monopolies spring from backgrounds free from fraud or other inequitable conduct and that such monopolies are kept within their legitimate scope.

> Those who have applications pending with the Patent Office or who are parties to Patent Office proceedings have an uncompromising duty to report to it all facts concerning possible fraud or inequitableness underlying the applications in issue. (emphasis supplied).

Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806, 818, 65 S.Ct. 993, 998-999 (1945).

Golden Valley's Inequitable Conduct

Inequitable conduct focuses upon whether something material has been concealed or misrepresented to the Patent Office. In the case at bar, after three weeks of trial, the District Court made a series of findings that Golden Valley had committed multiple acts of deliberate, systematic fraud with intent to mislead the Patent Office on obtaining both patents. Those 94 pages of detailed, fully annotated findings (A3-97), included the following:

1) That Golden Valley concealed from the Patent Office Examiner who examined both asserted patents, that it had filed an earlier co-pending patent application for the virtually identical popcorn bag and heating element (the '723 application), which prior application had been repeatedly rejected by the Patent Office as being unpatentable for obviousness in light of the existing technology. A11-32, 71-73.

2) Golden Valley's concealment from the Patent Office that it had made squarely contradictory representations in that prior '723 application, that were crucial to purported patentability. A47, 56, 74-75. In the earlier

'723 application, Golden Valley told the Patent Office that a first version of its purported invention (actually invented by another company) never "scorched, shriveled or burned." A46-47, 74-75. In the patents at issue, in highlighting a second version of the invention, Golden Valley told the Patent Office that the very same first version always "scorched, shriveled and burned." A47-49. This contradiction -- which went to the heart of issuance of the asserted patents -- was deliberately withheld by Golden Valley. A49-51, 78-80.

3) Golden Valley withheld from the Patent Office that the laminate incorporated into its patent applications was received from another company, James River, and not invented by Golden Valley; although Claims 8 et al. of the '513 patent and claims of the '765 patent clearly covered this James River embodiment. A15-16, 57-66, 75-76, 78-79.

4) Golden Valley withheld from the Patent Office tests relative to certain prior art (Brastad '924 and '420) which yielded contradictory and opposite results from those submitted to the Patent Office. A37-38.

5) Golden Valley submitted test results to distinguish the '513 patent over the prior art knowing full well that various pursued claims of the issued '513 patent still covered the prior art embodiments. A42-43, 50-51, 61-62, 78-79.

6) Golden Valley systematically withheld from and/or mischaracterized to the Patent Office nearly a dozen material, indeed crucial, prior art patents and products. A32-42, 63-71, 116.

7) Golden Valley rigged critical tests that it submit-

ted to the Patent Office, which tests were the admitted "but for" cause of the patents' issuance. Golden Valley concealed from the Patent Office crucial variables (inferior glues, pressures and drying techniques) in the testing procedures, while misdescribing the results of the testing. A43-45.

8) Golden Valley's submission to the Patent Office of Affidavits and Declarations which were "materially misleading", A47, showed "knowing and deliberate deception", A48, and were "materially false and misleading", A49. Indeed, the Court referred to them as "fraudulent", A72.

9) Golden Valley's concealment from the Patent Office of the existence of federal court litigation between Golden Valley and James River concerning the rights to the "prior art" and the products conforming to the '513 and '765 patents which were pending at the time. This was done in spite of the Patent Office's clear rule that all such litigation must be disclosed. A57-63. Disclosure of the James River litigation would have revealed information contradictory to the positions taken by Golden Valley with respect to the prior art patents and products. A57-63.

Golden Valley's Second Patent Perpetuated, Instead of "Cured" the Inequitable Conduct

Golden Valley continued this course of fraud and deceit with respect to its second patent, the '765 patent, under the guise (and present argument of Golden Valley) that the '765 patent somehow "cured" the fraud committed in connection with the first '513 patent. A63-71.

In particular, the District Court found that Golden Valley's conduct during the prosecution of the second application, the '765 prosecution, included the following omissions and misrepresentations so as to independently constitute inequitable conduct undertaken with an intent to deceive--separate and apart from that engaged in during prosecution of the '513 application:

* Failure to inform the '765 Examiner of the abandoned '723 application or its prosecution history (which identified crucial prior art otherwise withheld by Golden Valley). A64;

* Failure to disclose to the '765 Examiner the abandoned '723 application's test results, which were wholly contradictory to the '765 test results. A64, 68, 72, 87-88;

* Failure to actually limit the '765 claims solely to those of a double-sided laminate structure, notwithstanding misrepresentations to the '765 Examiner to the contrary. A64-66;

* Failure to disclose to the '765 Examiner that Claim 8 of the '513 patent, covering a single-sided laminate structure, had already issued while pretending to distinguish remaining '765 claims from "single-sided" prior art. A65-66;

* Failure to have the prior art Pillsbury pizza tray and Wyandot popcorn container formally considered by the '765 Examiner through withholding of the actual commercial constructions. A66;

* Failure to disclose in the '765 prosecution that the prior art Wyandot popcorn container included an embodiment in which the prior art susceptor laminate included a susceptor preliminarily laminated to paper, which is not shown in either the Bohrer '010 or Bohrer '882 prior art patents. A10, 11, 66;

* Failure to disclose to the '765 Examiner all of the disparities and discrepancies between the test results of the '513 prosecution, and the diametrically opposite test results of the '765 prosecution, which were misrepresented to the '765 Examiner as having no material "differences". A67-68, 71, 78-79;

* Failure to disclose to the '765 Examiner all of the differences between the test samples and conditions with respect to the tests performed during the '765 prosecution, relative to the '513 prosecution tests. A67-68, 71;

* Careful mischaracterization to the '765 Examiner of the actual commercial acceptability and prior success of the Wyandot commercial popcorn container, the Pillsbury pizza package and other packaging employing James River's Qwik Crisp technology. A68-75, 78-79;

* Failure to disclose to the '765 Examiner the existence and significance of the James River Qwik Crisp (paper to susceptor laminate) technology, while withholding the important Brandberg '045 and the Borek '573 patent references. A68-69, 78-79;

* Failure to disclose to the '765 Examiner the James River litigation where Golden Valley's "invention" was charged with infringing James River's patents. A68-69, 79, 93, 97; and,

* Failure to disclose to the '765 Examiner that Golden Valley's first susceptor-paper laminates used by Golden Valley were not its creation, but were actually obtained from James River. A15-16, 57-63, 70, 85.

Moreover, the '765 prosecution merely perpetuated the omissions, mischaracterizations, misrepresentations and deceptions that had permeated the '513 prosecution. A64-71, 97. Accordingly, the '765 "disclosures" could not "save" either the '513 or '765 patents from findings of inequitable conduct, nor justify the continued assertions of the '513 comparative tests.

The District Court Found Multiple Instances of Inequitable Conduct -- Any One of Which Renders the Golden Valley Patents Unenforceable

Significantly, any one of the above findings would be sufficient to render Golden Valley's patents unenforceable for inequitable conduct. For example, the deliberate omission of even one material prior art patent (category six above) is grounds for finding inequitable conduct. Merck & Co., Inc. v. Danbury Pharmacal, Inc., 873 F.2d 1418 (Fed. Cir. 1989). Similarly, a false and misleading affidavit (category 8 above) leads to unenforceability of the patent for inequitable conduct. Hewlett Packard Co. v. Bausch & Lomb, Inc., 882 F.2d 1556 (Fed. Cir. 1989), cert. denied, 493 U.S. 1076

(1990), on remand, 746 F.Supp. 1413 (N.D.Cal. 1990), aff'd per curiam, 925 F.2d 1480 (Fed. Cir. 1991), cert. denied, 115 L.Ed.2d 1021 (1991). These rules are necessary to ensure a properly functioning patent system.

> [t]he highest standards of honesty and candor on the part of applicants in presenting such facts to their office are thus necessary elements in a working patent system. We would go so far as to say they are essential.

Hycor Corp. v. Schlueter Co., 740 F.2d 1529, 1538 (Fed. Cir. 1984) citing Norton v. Curtis, 433 F.2d 779, 794 (CCPA 1970).

The case at bar displayed a magnitude of acts, and a level of deliberate deception, rarely, if ever, uncovered in the annals of patent prosecution, with the District Court further deciding:

> In summary, the court finds that Golden Valley: (1) deliberately concealed its prior '723 application, which contained representations of prior inconsistent test results and critical prior art references; (2) filed false, misleading affidavits during the prosecution of both the '513 and '765 patents; (3) failed to disclose litigation with James River which disclosed the true origins of the "invention" at issue; (4) failed to cite and/or mischaracterized relevant prior art; and (5) unlawfully claimed the James River heater pad technology as its own. Each of these acts constituted an omission of known material information or a knowing misrepresentation of material information, and was undertaken with the intent

to mislead Examiner Bell as he examined the '513 and '765 patent applications. (emphasis supplied). A97.

REASONS FOR DENYING THE WRIT

There are no legitimate grounds for certiorari set forth in Golden Valley's petition.

Pursuant to Supreme Court Rule 10.1(a), a petition for certiorari must demonstrate either: (a) a serious conflict among the Appellate Circuits as to an important issue of law; or, (b) a serious conflict with a decision of this Court.

As to the first requirement, Golden Valley attempts to prompt an "esoteric" analysis -- one that virtually has nothing to do with the facts of this case (or the District Court's decision) since both are replete with adversity to Golden Valley's position.

Golden Valley now claims that there is a "conflict" in how the "abuse of discretion" standard has been formulated and/or applied, pointing as examples to Judge Learned Hand's 1929 formulation on the one hand, and Judge Friendly's 1982 law review article on the other. (Petition for Certiorari at pp. 9-10). This is far-fetched in the extreme.

A conflict warranting the grant of certiorari must be "a real or intolerable conflict on the same matter of law or fact, not merely an inconsistency in dicta or in the general principles utilized." Stern, Gressman & Shapiro, Supreme Court Practice §4.3 p. 196 (BNA 1986). No such conflict even remotely exists among the circuits. The abuse of discretion standard has consistently been

applied by the circuits as "not merely substitut[ing] our judgment for that of the trial judge." Barnett v. Equitable Trust Co., 34 F.2d 916 (2nd Cir. 1929); Manor Healthcare Corp. v. Lamelo, et al., 929 F.2d 633 (11th Cir. 1991); Libby v. Illinois High School Association, 921 F.2d 96 (7th Cir. 1990); Kasper v. Board of Election Commissioners of the City of Chicago, 814 F.2d 332 (7th Cir. 1987); Deitchman v. E.R. Squibb & Sons, Inc., 740 F.2d 556 (7th Cir. 1984); and Founding Church of Scientology of Washington D.C., Inc. v. Webster, et al., 802 F.2d 1448, (U.S.App.D.C. 1986). [2]

Moreover, Golden Valley remains unable to point to one purported actual error, much less an abuse of discretion in this case that is at odds with discretion as it is exercised in any other Appellate Circuit. Accordingly, under any conceivable standard which could be, but yet has not been formulated or articulated by Golden Valley for application of the "abuse of discretion" standard, the judgment against Golden Valley would necessarily be affirmed, because of the serious, repeated, outrageous and intentional nature of Golden Valley's misconduct. Any one of the findings leads to affirmance of the District Court's decision. Stratoflex Inc. v. Aeroquip Corp., 713 F.2d 1530, 1541 (Fed. Cir. 1983).

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2. Golden Valley cites a few cases which purportedly substantiate its claim of conflict between the circuits including PPG Industries, Inc. v. Celanese Polymer Specialties Co., Inc., 840 F.2d 1565 (Fed. Cir. 1988). What Golden Valley omits is that the portions of the PPG decision cited by it were not the consensus opinion of the Federal Circuit, but merely an additional view of Judge Bissell.

The District Court Committed No Fundamental Errors of Law

Golden Valley's alternative argument appears to be that there were "fundamental errors of law" which the District Court made, and which the Federal Circuit ignored, and which purportedly "require reversal and remand" under Platt v. Minnesota Mining & Manufacturing Co., 376 U.S. 240 (1964). This argument is, absurd and was previously considered and soundly rejected by the Federal Circuit.

The District Court Correctly Understood the Term "Flexible"

What were these supposed "fundamental errors of law" that Golden Valley claims occurred? The "most pervasive error" argued by Golden Valley is that the District Court purportedly could not understand the word "flexible" as used in Golden Valley's patents. (Cert. Petition at p. 5). Specifically, the District Court supposedly could not distinguish between the James River prior art, which Golden Valley inaccurately argues was only "bonded to rigid paperboard" (emphasis by Golden Valley)[3] as opposed to the Golden Valley product, which was supposedly not bonded to such "rigid" paperboard. Id. In reality, the James River prior art included bondings to other flexible sheets such as thin paper. A9-10, 36-37. Notwithstanding the fact that the prior art showed bondings of all weights of

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3. "Paperboard" as defined by Golden Valley's own witnesses is merely slightly heavier than paper, and lighter than cardboard. A27, 53, 54.

paper, according to Golden Valley, Judge Lee -- an experienced trial judge and former United States Attorney, and the distinguished Appellate panel -- just could not "grasp" this concept of "flexibility".

To "assist" this Court in understanding the correct meaning of the word "flexible", Golden Valley has only attached Appendix J (A111) to its Petition for Certiorari; a carefully isolated "excerpt" from its patents. That "excerpt" contains only the words "sufficient flexibility to be wound, unwound, transferred either as cut sheets...or formed into package structures..." Appendix J. A111. Golden Valley proceeds to represent to this Court that its patent does not contain any claim or description of bonding anything to a "rigid" paperboard substrate.

But Golden Valley has carefully withheld the full disclosure of its patents from this Court. As the District Court below correctly found, Golden Valley's patent

> specified that the "flexible sheet material" (stabilizing sheet) was preferably a cellulosic material, such as "paper, cardboard, paperboard or synthetic sheet." (emphasis supplied). A27.

The District Court quoted directly from Golden Valley's own patent; where Golden Valley itself defined "flexible" -- to include that very same "rigid" paperboard as did James River -- and further to include cardboard[4] -- all of which was noticeably omitted from Appendix J.

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4. See Golden Valley's '513 patent, column 4, lines 7-10. A112.

Moreover, Figure 9 of Golden Valley's patent is a rigid tray lid. Figure 14 is a pie dish, such as the container in which a commercial pie is sold. The patent describes this as "a paper dish that is pressed into a dish shape..." '513 patent, column 9, lines 45-46. A114. These embodiments of the claimed invention describe stiff paperboard and cardboard. The patent elsewhere tells us that "sheet 60 [the basic "invention"] can also be used as a liner for the bottom of a plastic T.V. dinner tray or as a liner for the bottom and top if desired of a package of french fried potatoes." '513 patent, column 8, lines 9-11. A113.

Indeed, Claim 14 of Golden Valley's '513 patent directly reads on the stiff paperboard prior art.

> 14. The laminate of claim 8 wherein said backing sheet comprises a sheet of stiff paper and said laminate is folded by the application of pressure to the form of a self-supporting dish. (emphasis supplied). '513 patent, column 11, lines 3-6. A115.

Claim 8, from which Claim 14 depends, thus defines "flexible" as including paper, paperboard and cardboard lamination.[5]

Why did Golden Valley not include all of these descriptions in its Appendix J? Regrettably, Golden Valley's penchant for attempting to mislead tribunals

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5. Indeed, at trial, Golden Valley's witnesses admitted that "flexible" meant paper, paperboard or cardboard. A52-54.

does not appear to have stopped at the steps of the United States Patent Office. The District Court thoroughly considered the issue of "flexible" and made specific findings on the lack of Golden Valley's credibility on this issue. A52-54. The withheld and mischaracterized information was material, A55-57, and withheld and/or mischaracterized with intent. A78-79.

The District Court Correctly Defined
Golden Valley's Purported Invention

Furthermore, no inaccurate shorthand or gist of the "invention" was ever utilized by the District Court during its careful analysis of the disclosures of the prior art. Notwithstanding the use by Golden Valley's own fact and expert witnesses at trial of the purportedly improper "shorthand" or "gist" of the invention, the District Court, expressly set forth and discussed the claimed elements of Claim 8 of the '513 patent when conducting its analysis. A25.

The District Court was exposed to extensive testimony on the scope of the claims of the '513 patent. The District Court's understanding of the actual scope of the claims of the Golden Valley patents, as taken in their respective entireties, is shown by, among other things, its references to and discussion of the various claimed elements of the '513 patent. A13-15, 19-20, 27-29, 34-36.

The District Court Properly
Considered the Prior Art and
Its Relative Pertinence

Similarly, the District Court did not deem the Japanese patent and the '723 application as "prior art"

as Golden Valley contends. The District Court consistently cited the Japanese patent and the abandoned '723 application not as prior art, but rather as a source of information that would have disclosed or led to disclosures of the '723 application (prior art, testing results, etc.) -- which should have been disclosed by Golden Valley. A22-32, 36, 71-73.

The District Court properly considered the relative pertinence of the prior art and Golden Valley has made no attempt to compare the materiality of the patent references Golden Valley now claims to be more material than the prior art relied upon by the District Court.

Golden Valley Did Not Comply with its Duty of "Prior Art" Disclosure

Finally, Golden Valley's merely providing the Patent Office with a copy of one of the prior art references was deemed incapable of complying with its duty of disclosure -- particularly in view of nearly a dozen withheld and/or mischaracterized prior art patents and products. A116.

The cited decision in Scripps Clinic & Research Foundation v. Genentech, Inc., 927 F.2d 1565 (Fed. Cir. 1991) cannot excuse Golden Valley's withholding, mischaracterizing and/or "burying" of pertinent reference information. In Scripps, unlike the case at bar, the allegedly withheld reference was only material to "withdrawn claims". Id. at 1582. Moreover, in Scripps, unlike the case at bar, there was no indication that the full reference, which the allegedly withheld "abstract" related to, had not been properly "considered" by the examiner, nor that he or she had been misled as to its relevance.

The *Platt v. Minnesota Mining* Decision Is Not Applicable to the Present Case

Golden Valley's invocation of Platt v. Minnesota Mining in these circumstances borders on the bizarre. That case was a criminal prosecution for antitrust violations. The issue was whether the defendant 3-M should be tried in Chicago (where the alleged antitrust violation occurred) or in Minnesota, where it was headquartered. The district court refused a transfer of the case from Chicago to Minnesota. In reaching its decision, the district court considered the various factors of Criminal Rule 21, but added one impermissible factor -- the court's subjective belief that it would be more difficult to receive a fair trial in Minnesota than in Chicago. The court of appeals awarded mandamus. This Court granted certiorari "in view of the importance of the questions to the prosecution of multivenue cases." 376 U.S. at 242.

This Court reversed the appeals court, finding mandamus to be inappropriate, while agreeing that the district court had added one impermissible factor to its calculus of transfer. This Court held that the appeals court's role was to identify the proper factors to take into account on a transfer motion, and then to permit the district court to exercise its discretion, rather than deciding the matter de novo on a mandamus petition. This Court stated:

> The function of the Court of Appeals in this case was to determine the appropriate criteria and then leave their application to the trial judge on remand. 376 U.S. at 245.

In the case at bar, the "appropriate criteria" to be taken into account are the elements of "inequitable conduct" which have been repeatedly articulated by this Court (see Precision Instrument, supra) and by the Federal Circuit (See Kingsdown, Merck and Hewlett Packard, *supra*). The District Court cited to, applied, and relied upon, the correct legal criteria. A80-97. Golden Valley does not contend to the contrary. The District Court made exhaustive findings of fact, which Golden Valley did not (and cannot) challenge as even remotely, much less "clearly" erroneous. The District Court, applying the correct legal standard, found that Golden Valley's patents were unenforceable for inequitable conduct. Reviewing under those acknowledged legal principles, the Court of Appeals affirmed the decision not once, but twice, without further opinion.

In attempting to rely on Platt, Golden Valley asserts two unsubstantiated and wholly fanciful premises. First, that the District Court committed error, and second, that the Court of Appeals recognized the error and "rubber stamped" the District Court's opinion. The obvious flaw in this analysis is that the District Court did not err. If the analysis instead starts with the premise, as it should, that the District Court was correct in its decision, then it is appropriate for the Court of Appeals to enter a unanimous Federal Circuit Rule 36 decision without opinion. Accordingly, there is simply no logic to Golden Valley's purported reliance upon Platt for an argument that this case must be remanded to the District Court for new or different findings. There simply has been no substitution of "discretion" by the Federal Circuit.

The Federal Circuit has consistently followed the

correct analysis of Platt as evidenced by the Federal Circuit opinion in Seattle Box Co., Inc. v. Industrial Crating and Packing, 756 F.2d 1574 (Fed. Cir. 1986). In Seattle Box, the Federal Circuit recognized and accepted an accurate interpretation of Platt, stating:

> When a district court applies a statute erroneously and thus fails to make findings of fact under Federal Rule of Civil Procedure 52(a), or fails properly to provide an indication of the grounds for its exercise of discretion, an appellate court will normally remand for further proceedings in order to permit the district court to make the missing findings. Id. at 1577.

Neither of the concerns of Platt or Seattle Box even remotely exist in the present case. Indeed, had the Federal Circuit been of the opinion that the District Court had erred in the first place, it would have remanded the case, instead of granting unanimous affirmation.

CONCLUSION

In its detailed, 94 page decision (A3-97), the District Court considered the invention as claimed, assessed the proper burden of proof, and carefully considered every requisite element for a thorough, accurate analysis of Golden Valley's inequitable conduct. Therefore, for all of the foregoing reasons, Golden Valley's Petition for Writ of Certiorari should be denied.

Respectfully submitted,

RICHARD D. HARRIS*
MAX SHAFTAL
HERBERT H. FINN
LAW OFFICES OF DICK AND HARRIS
181 West Madison Street
Suite 3800
Chicago, IL 60602
(312) 726-4000

HAROLD E. KOHN
ROBERT J. LAROCCA
KOHN, NAST & GRAF, P.C.
1101 Market Street
Suite 2400
Philadelphia, PA 19107
(215) 238-1700

ROBERT F. CONTE
SAUL, EWING, REMICK & SAUL
3800 Centre Square West
Philadelphia, PA 19102
(215) 972-7144

ARTHUR H. SEIDEL
THOMAS J. DURLING
SEIDEL, GONDA, LAVORGNA
& MONACO, P.C.
1800 Two Penn Center
Philadelphia, PA 19102
(215) 568-8383

Counsel for Respondents

* Counsel of Record

APPENDIX

APPENDIX K

Excerpt From U.S. Patent No. 4,735,513

In one preferred form of the invention the dimensionally stable backing sheet is a cellulosic material such as paper, cardboard, paperboard or synthetic sheet formed from synthetic plastic fibers of a non-thermoplastic and dimensionally stable composition.

Col. 4, lines 7-12

APPENDIX L

Excerpt From U.S. Patent No. 4,735,513

The sheet 60 can also be used as a liner for the bottom of a plastic T.V. dinner tray or as a liner for the bottom and top if desired of a package of french fried potatoes. In a preferred form of the embodiment shown in the Fig. 8, the laminate consists of upper and lower sheets composed of machine glazed kraft paper having a basis weight of 25 to 50 pounds per ream.

Col. 8, lines 9-15

APPENDIX M

Excerpt From U.S. Patent No. 4,735,513

In Fig. 14 is illustrated a paper dish 150 that is pressed into a dish shape between a pair of mating forming dies. The dish has a side wall 154 and bottom wall 156 in this case of circular shape, and a rim 158. To the upper surface of the dish is bounded a polyester film 160 which because of its very light weight takes on the same shape as the paper tray 150.

Col. 9, lines 45-51

APPENDIX N

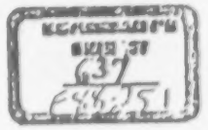
Excerpt From U.S. Patent No. 4,735,513

14. The laminate of claim 8 wherein said backing sheet comprises a sheet of stiff paper and said laminate is folded by the application of pressure to the form of a self-supporting dish.

Col. 11, lines 3-6

APPENDIX O

PRIOR ART	MATERIAL	KNOWLEDGE		WHAT G.V. DID - '513
		FACT	TITLE	
BOREK '573	✓	✓	✓	NOT DISCLOSED
BRASTAD '420, '924	✓	✓	✓	INACCURATE
BRANDBERG '045	✓	✓	✓	NOT DISCLOSED
BOHRER '010	✓	✓	✓	LISTED, SENT, NOT ARGUED
WYANDOT - comml	✓	✓	✓	NOT DISCLOSED
TOTINOS - comml	✓	✓	✓ S.H.K.	NOT DISCLOSED
QUIK-CRISP	✓	✓	✓	NOT DISCLOSED
WINTERS '427	✓	✓	✓	NOT DISCLOSED
SEIFERTH '005	✓	✓	✓	DISCL AND SUBMITTED TESTS



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